88-546

No. ———

Supreme Court, U.S.
FILED
SEP 29 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1988

LAWRENCE DAVID MORDEROSIAN,
Petitioner,

v.

OFFICE OF PERSONNEL MANAGEMENT,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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QUESTIONS PRESENTED

1. Whether the United States Court of Appeals for the Federal Circuit erred in its decision that upheld the allegation claimed by the Office of Personnel Management, as stated in the Decision of the Merit Systems Protection Board Docket No. DC07328710040. That Decision upheld the OPM's September 23, 1986 determination: (1) finding that the Petitioner intentionally falsified his Standard Form 171; (2) Concluding that the Petitioner was unsuitable for Federal employment; and (3) barring the Petitioner from competing for a Federal appointment until September 23, 1989?

2. Whether the United States Court of Appeals for the Federal Circuit has in fact been unconsciously tainted in its Decision by the massive amount of these allegations in the Appendix which accompanied the BRIEF FOR THE PETITIONER and the REPLY FOR PETITIONER?

3. Whether the Court of Appeals for the Federal Circuit had taken into consideration the communications that occurred between the Petitioner and the Office of Personnel Management's Director, Suitability Adjudications Branch and Office of General Counsel in which the Petitioner specifically requested the OPM for approval of his SF 171 in May, 1985, which resulted in the OPM awarding the Petitioner current eligibility for Government employment (June 15, 1985)?

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	iv
OPINIONS BELOW	2
JURISDICTION	3
CONSTITUTIONAL PROVISION INVOLVED	3
STATUTES INVOLVED	3
STATEMENT OF THE CASE	3
REASONS FOR GRANTING THE PETITION	4
CONCLUSION	9

TABLE OF AUTHORITIES

Cases Page

Naekel v. Dept. of Transportation, 782 F.2d 975, 977 (Fed. Cir. 1986) 7, 8
Dennis v. Dept. of Health and Human Services, 804 F.2d 670, 672 (Fed. Cir. 1986) 7, 8
Kumferman v. Dept. of Navy, 785 F.2d 286, 290 (Fed. Cir. 1986) 7

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OFFICE OF PERSONNEL MANAGEMENT,
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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

The Petitioner, Lawrence David Morderosian, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Federal Circuit entered on June 1, 1988 (87-3562).

OPINIONS BELOW

The United States Court of Appeals for the Federal Circuit entered its Decision affirming the Petitioner's Motion for REVIEW FROM THE DECISION OF THE MERIT SYSTEMS PROTECTION BOARD, GIBSON, C., in part. The Court consolidated this appeal by the Petitioner for review of two related cases before the Merit Systems Protection Board ("MSPB"). The Court vacated and remanded the Board's Decision upholding an Office of Personnel Management ("OPM") determination

that the Petitioner was unsuitable for Federal employment and barred, for roughly a year and a half, from competing for Federal employment (Appeal 87-3563). In Appeal 87-3562, the Court affirmed in part, and vacated and remanded in part, the Board's Decision that the Petitioner was unsuitable for Federal employment and barred for three years from competing for Federal employment. (A copy of that Decision is attached as App. A, p. 1a).

JURISDICTION

The jurisdiction of this Court is invoked under Title 28, United States Code, Section 1254(1).[1]

CONSTITUTIONAL PROVISION INVOLVED

United States Constitution, Amendment V:

> ". . . Nor shall any person be deprived of life, liberty, or property, without due process of law . . ."

STATUTES INVOLVED

5 U.S.C. § 7703

5 U.S.C. § 731.202(b)(3)

STATEMENT OF THE CASE

On June 1, 1988 the United States Court of Appeals for the Federal Circuit affirmed in part the Decisions of the Merit Systems Protection Board.

The cases were consolidated in this Court pursuant to motion of Petitioner since they involved the same Petitioner and involved interagency action. The foundation of these cases was an appeal by Petitioner from the September 23, 1986 decision of the Office of Personnel Management (hereinafter referred to as OPM), declaring the Petitioner unsuitable for Federal employment in the Federal competitive service.

---

[1] No other Petitioner is involved in this Petition.

OPM's unsuitability determination, which bars the Petitioner from Federal employment until September 23, 1989, was based in part on previous unsuitability allegations to which Petitioner had no opportunity to appeal.

The United States Court for the Appeals of the Federal Circuit remanded and vacated the MSPB decision upholding the OPM's determination that the Petitioner was unsuitable for Federal appointments (Appeal No. 87-3563).

The Court affirmed-in-part and vacated-in-part the MSPB decision upholding the subsequent OPM determination that the Petitioner was unsuitable for federal employment and barred for three (3) years from competing for federal appointments (Appeal No. 87-3562. A copy of this Decision is attached as App. B, p. 3a).

REASONS FOR GRANTING THE PETITION

The Petitioner was a federal employee for over 30 years. That period included over 16 years of military service which was ended due to forced disability retirement and 14 years of Federal Government service. All periods of Government service were served with commendations and decorations; "Letters of Commendation" and Outstanding/Superior performance ratings. The period of employment of the Petitioner with the General Services Administration (April, 1980-March, 1984) was discontented due to lack of work, attempts to force Petitioner to change religion, violations of Handicapped laws and discrimination of national origin and age. The General Services Administration had not responded to any of the formal complaints filed by the Petitioner in compliance with the EEO Act. Therefore the Petitioner began seeking employment with other Federal Agencies.

On May 23, 1985, OPM issued a negative suitability determination barring the Petitioner from Federal em-

ployment until January 19, 1987. Neither the Petitioner nor his attorney received a copy of this negative determination, nor did they otherwise know of the decision so that a timely appeal could be made.

On June 15, 1985 the OPM issued a "Notice of Rating" which firmly stated that the Petitioner was eligible for Federal employment. (See App. C, p. 5a). The aforementioned Notice of Rating resulted from a letter which the Petitioner had sent to the OPM for a determination of his eligibility for reinstatement. (See App. D, p. 7a). The letter to the OPM included a copy of Petitioner's SF 171, in exact detail of the one later submitted to the Small Business Administration, which resulted in his acceptance by that Agency.

That SF 171 contained the same reference cited by the OPM as being in violation of the unsuitability determination made by OPM on May 23, 1985. Specifically, the SF 171 section in question was Item 29, which asked . . . "Within the last five years have you quit a job after being notified that you would be fired?" If your answer to 28 or 29 above is YES, give details in Item 34". . . . The Petitioner checked "NO" in Item 29 in response to this question and Item 28. The Petitioner added his comment about Item 29 in Item 34 as follows:

> "I retired from the Federal Government after trying for four (4) years to obtain a transfer from the GSA to any other department. I was admonished for making minor errors on SF 171, which were later proven to be correct".

The SF 171 which was cited by the OPM contained additional Item 34 comments as follows:

> "I retired from the Federal Government (GSA) after being subjected to harassment and refusal to provide me assistance to transfer from the CSA

> (sic) (Washington, D.C.). After over three years and on advice of both my Attorney and Doctor, I chose to retire. The GSA made allegations of errors in my SF 171, which have since been proven to be 100% correct. Note I 'retired'; I did not quit."

On February 10, 1986, the Petitioner was informed by the OPM that it was making another suitability determination which was based upon prior allegations made in the suitability determination, and what the OPM regarded as a false answer to Item 29 on the SF 171. The Petitioner responded to the OPM with affidavits that proved beyond any reasonable doubt that the allegations made by the GSA in January, 1984, were in gross error. (See App. E, pp. 11a, 12a, 14a, 16a). On September 23, 1986 OPM issued a Determination that found the Petitioner unsuitable for federal employment and barred him from seeking such employment until September 23, 1989.

The Petitioner objected to this Determination since the negative suitability determination was based on allegations made by the GSA and subsequently proven to be in error by GSA. Judge Gibson, MSPB Judge at the Hearing held on January 16, 1987, ruled that any evidence refuting such charges would not be admitted.

Specifically, the Judge appeared to narrow the appeal solely to the question of the Petitioner's SF 171 application Item 29. In essence: if Item 29 was an intentional false statement or description or fraud in examination or appointment (5 U.S.C. § Sec. 731.202(b)(3). The Petitioner testified at the Hearing cited above, as did Mr. Richard Seagrave-Daly, who had hired the Petitioner for the SBA. Mr. Seagrave-Daly testified that he had been aware of the Petitioner's problems with the GSA and confirmed this in testimony.

The Petitioner suggests that consideration be given to the fact that the SF 171 which was used for determina-

tion of hiring of the Petitioner by the SBA contained the alleged incorrect information in Item 29. The Petitioner advised Mr. Seagrave-Daly during the interview for this position, that he had stated in Item 34 why he was leaving GSA by the retirement method, and Mr. Daly agreed that this was a logical way to obtain a separation from the GSA. (See App. F, p. 18a).

The Merit Systems Protection Board committed a reversible error in concluding that the OPM proved by preponderance of evidence that the Petitioner falsified his application with *INTENT TO DECEIVE THE GOVERNMENT*. The law requires the Government to prove by a preponderance of evidence both elements of the falsification charge. Under recent decisions by the Federal Court of Appeals it is clear that, in order to sustain that burden with respect to a charge of submitting false information on official Government documents, the agency must prove by a preponderance of evidence two separate elements: (1) that the Petitioner *knowingly supplied wrong information*; and (2) *that he did so with the intention of defrauding the Government. Naekel v. Department of Transportation*, 782 F.2d 975, 977 (Fed. Cir. 1986). *See also, Dennis v. Department of Health and Human Services*, 804 F.2d 670, 672 (Fed. Cir. 1986); *Kumferman v. Department of Navy*, 785 F.2d 286, 290 (Fed. Cir. 1986). The OPM did not carry its burden in proving either element in this case.

Under recent decision of *Naekel v. Department of Transportation*, 782 F.2d 975, 977 (Fed. Cir. 1986), the Government is required to prove that the Petitioner knowingly supplied false information in checking the "No" column on his May 18, 1985 SF 171 in response to Item 29. The OPM had available an SF 171 which contained the same Item 29 check of "No" and letters from the Petitioner which asked for and in response

received a formal notice of rating from the OPM confirming his eligibility to seek re-employment with the federal Government.

The Government failed to prove that the Petitioner knowingly provided a false answer but, in fact, failed to prove that the answer is false at all.

As is stated in *Naekel*:

> The fact that an incorrect response cannot control the question of intent. Where a bare inaccuracy controlling on the question of intent, the "intent" element of the charge would be summed within the distinct inquiry of whether the employee's answer adheres to the true state of facts. A system of real people, pragmatic in their expectations, would not easily tolerate a rule under which the slightest deviation from the truth would sever one's tenuous link to employment. Indeed, an SF 171 does not require absolute accuracy. Instead, an employee must certify that the answers are "true, complete and correct to the best of my knowledge and belief, and are made in good faith". No more than that can reasonably be required. The oath does not ask for certainty and does not preclude a change in one's belief.

792 F.2d at 978. *See also Dennis v. Department of Health and Human Resources, supra,* 804 F.2d at 673.

The Government argued that to check the "No" column, regardless of the additional information provided to qualify that "No" constituted a false answer to the question. It is submitted that in the circumstances of this case, the Petitioner's answer to Item 29, as qualified by the explanation in Item 34, is not as a matter of fact of law a false answer.

In addition, the Petitioner refers to the fact that he had submitted an identical SF 171 to the Office of Personnel Management in May, 1985, with reference to the accuracy and correctness of that SF 171, and the OPM

responded with a new "Notice of Rating" dated June 15, 1985.

In essence, the SF 171 which has been cited by the OPM as containing false and fraudulent information, was submitted by the Petitioner in good faith and with no intention to commit any incorrect SF 171 information. The Petitioner did not approach the question of Item 29 lightly, but he went to the extreme of adding a specific comment about the fact that he had major problems during his entire period of employment with the GSA; that he had determined to retire based on advice of Attorney and Doctor. There was no knowing falsehood. The Petitioner's completion of the SF 171 was based on acceptance by the OPM as shown in his query to the OPM office. This very office controls the awards of eligibility for employment and, most importantly, his letters to the OPM office which claimed the SF 171 was in deliberate error and a fraudulent document by the Petitioner knowingly. *That the Office of the Suitability Adjudication Branch was queried by the Petitioner before the submittal of his application to the SBA and also notified before he had been accepted by the SBA. There were no adverse communications from that office or the OPM at any time.* These letters were accompanied by copies of the SF 171 which is under inquiry and alleged to be false in content. (See App. G, pp. 20a, 23a).

CONCLUSION

For the foregoing reasons, the Decision of the United States Court of Appeals for the Federal Circuit dated June 1, 1988, should be reversed, and the Petitioner be reinstated with full benefits, back pay and costs. Likewise the decision of the Merit Systems Protection Board should be reversed and remanded with instructions that the decision previously entered be revised to declare that the Petitioner's debarment was void *ab initio*, pursuant to 5 U.S.C. § 7703(c).

The Petitioner, Lawrence David Morderosian, respectfully requests that a writ of certiorari issue to review the Judgment of the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

LAWRENCE DAVID MORDEROSIAN
8727 Cuttermill Place
Springfield, Virginia 22153
(703) 644-9428
Attorney Pro Se

Dated: September 29, 1988

APPENDICES

APPENDIX TABLE OF CONTENTS

		Page
A.	U.S. Court of Appeals for the Federal Circuit Decision No. 87-3562/63	1a
B.	U.S. Court of Appeals for the Federal Circuit Decision No. 87-3562	3a
C.	"Notice of Rating", OPM Form 4008, dated June 15, 1985	5a
D.	Letter to Director, OPM, dated May 3, 1985, with SF 171 Attachment	7a
E.	Affidavit of Naomi Adams dated November 15, 1985	11a
	Affidavit of Gloria A. Mitchell, dated February 15, 1985	12a
	Statement of James Bergfalk, dated February 6, 1985	14a
	Statement of Donald E. Clark, dated October 12, 1984	16a
F.	Statement of Richard Seagrave-Daly, dated April 4, 1985	18a
G.	Letter to T. DelPozzo, Chief, OPM Suitability Adjudication Branch, OPM, from the Petitioner, dated July 29, 1985	20a
	Letter to T. Del Pozzo, Chief Suitability Adjudication Branch, OPM from Petitioner, dated December 15, 1985	23a
H.	Petitioner request to the Supreme Court of the United States for an extension of time for filing writ of certiorari, dated August 10, 1988	25a
I.	Approval of Time extension by the United States Supreme Court dated September 19, 1988	27a

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

87-3562, - 3563

LAWRENCE A. MORDEROSIAN,
Petitioner,

v.

OFFICE OF PERSONNEL MANAGEMENT,
Respondent.

DECIDED: June 1, 1988

Before BISSELL, *Circuit Judge*, COWEN, *Senior Circuit Judge*, and MICHEL, *Circuit Judge*.

BISSELL, *Circuit Judge*.

This is a consolidated appeal by Lawrence D. Morderosian in which Morderosian petitions for review of two related cases before the Merit Systems Protection Board (Board). In appeal No. 87-3563, we *vacate and remand* the Board's decision upholding an Office of Personnel Management (OPM) determination that Morderosian was unsuitable for federal employment and barred for roughly a year and a half from competing for federal appointments. In appeal No. 87-3562, we *affirm-in-part, and vacate and remand-in-part*, the Board's decision upholding a subsequent OPM determination that Morderosian was unsuitable for federal employment and barred for three years from competing for federal appointments.

APPEAL NO. 87-3563

In this appeal, Morderosian petitions for review of the Board's decision in Docket No. DC07318710185. There Morderosian filed with the Board an untimely appeal of

a May 23, 1985 OPM debarment decision. Morderosian's appeal was late because the OPM had failed to notify Morderosian of its decision. The Board, however, refused to waive the time limit for filing the appeal because it concluded that the validity of the debarment decision was a moot question. The Board so held because it found that the OPM never implemented the decision, and consequently, the decision never harmed Morderosian.

We do not accept that conclusion. The OPM relied on the information gathered in this initial debarment decision in making the subsequent debarment decision reviewed below. Morderosian's employment record, moreover, is permanently tainted by this decision. These harms are sufficient to create a "live" controversy between Morderosian and the OPM, and to avoid the objection of mootness.

The OPM's failure to notify Morderosian of its debarment decision violates the Due Process clause of the Fifth Amendment. U.S. Const. amend. V; *see Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314-15 (1950). As such, the decision is void ab initio. We, therefore, vacate the Board's decision, and remand for the Board to direct the OPM to expunge this debarment decision.

APPENDIX B

APPEAL NO. 87-3562

In this appeal, Morderosian seeks review of the Board's decision in Docket No. DC07318710040. The decision upheld the OPM's September 23, 1986 determination (1) finding that Morderosian intentionally falsified his personal qualification statement on Standard Form 171 (SF-171), (2) concluding that Morderosian was unsuitable for federal employment, and (3) barring Morderosian from competing for a federal appointment until September 23, 1989.

Having reviewed the record, we are convinced that substantial evidence supports the Board's conclusion that Morderosian intentionally falsified his SF-171. Moreover, we agree with the Board's finding that Morderosian's debarment promotes the efficiency of the service. To this extent, we affirm the Board's decision.

We do, however, have difficulties with the three-year length of the debarment. The OPM based this decision, in part, on the previous debarment, and on the reasons contained in it. Because this decision was based on reasons we have held to be void, the length of the debarment is suspect.

This case is similar to *Boese v. Department of Air Force*, 784 F.2d 388 (Fed. Cir. 1986). There the Air Force removed an employee based on three charges of misconduct. *Id.* at 389. On appeal, the Board upheld only the least serious of the charges. *Id.* at 389-90. Subsequently, the Board mitigated the penalty to a ninety day suspension without pay. *Id.* at 390.

In this case, we have invalidated some of the grounds on which the OPM relied in setting a three-year debarment. Following *Boese*, the Board should now consider whether to mitigate the length of the debarment. We

acknowledge that in her initial decision the administrative judge (AJ) sought to avoid being influenced by the first debarment decision by refusing to hear any evidence pertaining to it. We are, nevertheless, concerned that the AJ's decision on debarment length may have been tainted by the earlier debarment decision. Therefore, we vacate that portion of the decision, and remand for further proceedings, including a fresh consideration of whether to mitigate debarment length.

COSTS

The OPM shall pay Morderosian's costs in both appeals.

REVISED

United States of America

OFFICE OF PERSONNEL MANAGEMENT

Office of Personnel Management
Washington, D. C. Area Office
1900 "E" Street N. W.
Washington, D. C. 20415

Notice of Rating

(Issuing Office) *****

NAME AND ADDRESS *(Number, Street, City, State and ZIP Code)*

Mr. Lawrence D. Morderosian
4700 Twinbrook Road
Fairfax, VA 22032

I.D. No. 410764

ANNOUNCEMENT TITLE AND NUMBER

Senior Level Positions
Announcement 408

DATE ISSUED June 17, 1985

PERIOD OF CONSIDERATION FROM ABOVE ISSUE DATE

☐ 6 MONTHS ☑ 12 MONTHS

SEE REVERSE SIDE

This is NOT a notice of appointment. It is a record of your rating. It is important that you keep it.

ONLY the section checked below refers to your rating. Disregard section not checked.

☑ Your rating is ELIGIBLE for all occupations and grades covered under the above announcement or for the following: All eligible ratings are tentative and are subject to meeting all medical, suitability, and qualifications requirements of the position at the time of consideration for employment. GS-13/14 10-pts.(CP)

1 ✓ Numerical ratings have not been assigned. See reverse side

2 ☐ The letters appearing above (if any) show 5-point (TP) or 10-point (XP or CP) veteran preference is included.

3 ☐ You may not enter on duty until completion of required education

4 ☐ You must maintain the required grade point average during your senior year

5 ☐

☐ Your qualifications statement has been carefully reviewed and we regret that we cannot refer your name to departments and agencies for employment consideration under the above announcement or for the following occupation(s) and or grades(s): (Reasons are checked in the appropriate boxes below)

1 ☐ You indicated that you would not accept the minimum salary for this grade(s)

2 ☐ You did not obtain a passing score on the written test

3 ☐ Your qualifications statement does not show that you meet the basic requirements as to experience or education as specified in the announcement

4 ☐ Your qualifications statement does not indicate you possess the skills and abilities required of the position

5 ☐ Your eligibility is suspended pending proof of correction of physical condition shown on the attached notice

6 ☐ You did not answer official correspondence.

7 ☐

☐ Your qualifications statement is returned for your possible future use.

See Important Message on Reverse

OPM FORM 4008
JANUARY 1979

*****

The Senior Level Positions Referenced in This Announcement Are:
1. Contract Specialist: GM-1102-14
2. Procurement Analyst: GM-1102-14
3. Management Analyst: GM-0343-14
4. Program Anlayst: GM-0345-13
5. Criminal Investigator: GM-1811-14 (Primarily in "White Collar Crime")

APPENDIX C

APPENDIX D

May 3, 1985

Director
Office of Personnel Management
19th & F Streets, N.W.
Washington, D.C. 20415

Dear Sir:

Re: Request For Assistance In Correct Completion of SF 171 For Re-Instatement

I am submitting this letter and the SF 171 attached hereto to your Office and asking for assistance in completing it correctly, to insure that there are no areas which may not be deemed proper. The reason for this extra caution is to preclude any errors.

I retired from the Federal Government in March, 1984, after a long period of problems with the General Services Administration which ranged from violations of my Constitutional rights to violations of my rights as set forth in the Equal Employment Opportunity Act. However, I consider that to be history and am anxious to return to my Federal career. The major areas of concern are in the Items that provide: (1) position descriptions; (2) Position titles; and (3) the comment that I added to Item 29. The matter of position description description is difficult for my period with the GSA. I had about 10% or less of normal work for this position. The problems with GSA Management on EEO violations cover that. I am going to show a minimum amount of work. I ask can I explain anything in Item 34 for this lack of work? The matter of Position titles concerns my work on special assignments to Missouri under the InterGovernmental Personnel Act of 1980. I was there for 3 years and most of my work was in investigations, i.e., on welfare fraud;

covert work on examination of Department contracts; working on busses and trucks to determine any fraud in monetary claims; etc. I propose to identify the position titles as being my actual work assignment. I was transferred as a Contract Specialist but my work was criminal investigations. Finally, the matter of Item 29 and my detailed description of my reason for retiring from Government. While I was told by an OPM person on the phone last week that I dont have to go into any details in Item 34, I had the option to do so if I wished. As you can see I have.

In September 1984, I received an OPM Form 4008, "Notice of Rating" with an ID number of 410764. I ask that if my enclosed revised and current SF 171 is within the acceptance of the OPM I be so notified. I am enclosing a copy of that OPM Form 4008 with my SF 171.

Sincerely,

/s/ Lawrence D. Morderosian
LAWRENCE D. MORDEROSIAN
4700 Twinbrook Road
Fairfax, VA. 22031

encl.

Personal Qualifications Statement

Read instructions before completing form

Form Approved
OMB No. 3206-0012

1. Kind of position (job) you are filing for (or title and number of announcement)

2. Options for which you wish to be considered (if listed in the announcement)

3. Home phone — Area Code: 703 | Number: 323 8808

4. Work phone — Area Code: 703 | Number: 3238808 | Extension:

5. Sex (for statistics only) — [X] Male [ ] Female

6. Other last names ever used: Morrison(See Item35)

Name (Last, First, Middle): Lawrence David Morderosian

Street address or RFD no. (include apartment no., if any): 4700 Twinbrook Road

City: Fairfax | State: Virginia | ZIP Code: 22032

8. Birthplace (City & State, or foreign country): Detroit, Michigan

9. Birth date (Month, day, year): July 18,1924

10. Social Security Number: 490 20 8981

11. If you have ever been employed by the Federal Government as a civilian, give your highest grade, classification series, and job title.

GM-1102-13; Contract Specialist

Dates of service in highest grade (Month, day, and year)

From April, 1970 To March,1984

12. If you currently have an application on file with the Office of Personnel Management for appointment to a Federal position, list (a) the name of the area office maintaining your application, (b) the position for which you filed and (if appropriate) (c) the date of your notice of rating, (d) your identification number, and (e) your rating

(a) OPM;Washington,D.C. (c)Sept. 1,1984
(b)Spervisory Contract Specst(d)OPMID#405042
& Criminal Investigator (e)GM-1102/1811-14

13. Lowest pay or grade you will accept — PAY: $ per | OR | GRADE: GM-13

14. When will you be available for work? (Month, and year): Immediately

DO NOT WRITE IN THIS BLOCK
FOR USE OF EXAMINING OFFICE ONLY

Material: [ ] Submitted [ ] Returned

Entered register

Notations.

Form reviewed

Form approved

ANNOUNCEMENT NO.

STATEMENT NO.

Option	Grade	Earned Rating	Preference	Aug Rating
			[ ] 5 Points (Tent.)	
			[ ] 10 Pts. 30% or More Comp. Dis.	
			[ ] 10 Pts. Less Than 30% Comp. Dis.	
			[ ] Other 10 Points	
			[ ] Disallowed	
Initials and date			[ ] Being Investigated	

THIS SPACE FOR USE OF APPOINTING OFFICER ONLY
Preference has been verified through proof that the separation was under honorable conditions, and other proof as required

[ ] 5-Point [ ] 10 Points 30% or More Compensable Disability [ ] 10 Points Less Than 30% Compensable Disability [ ] 10-Point Other

Signature and title

Agency | Date

15. Are you available for temporary employment lasting (Acceptance or refusal of temporary employment will not affect your consideration for other appointments)

	YES	NO
A Less than 1 month?		X
B 1 to 4 months?		X
C 5 to 12 months?		X

16. Are you interested in being considered for employment by

	YES	NO
A State and local government agencies?		
B Congressional and other public offices?		
C Public international organizations?		

17. Where will you accept a job?

	YES	NO
A In the Washington, D.C. Metropolitan area?	X	
B Outside the 50 United States?	X	
C Anyplace in the United States?		X
D Only in (specify locality) Texas; California;Ariz;N.Mex.		

18. Indicate your availability for overnight travel

A Not available for overnight travel	
B 1 to 5 nights per month	X
C 6 to 10 nights per month	
D 11 or more nights per month	

19. Are you available for part-time positions (fewer than 40 hours per week) offering

	YES	NO
A 20 or fewer hours per week?		X
B 21 to 31 hours per week?		X
C 32 to 39 hours per week?		X

20. Veteran Preference. Answer all parts. If a part does not apply to you, answer "NO"

	YES	NO
A Have you ever served on active duty in the United States military service? (Exclude tours of active duty for training in Reserves or National Guard)	X	
B Have you ever been discharged from the armed services under other than honorable conditions? You may omit any such discharge changed to honorable or general by a Discharge Review Board or similar authority). If "YES", give details in item 34		X
C Do you claim 5-point preference based on active duty in the armed forces? If "YES", you will be required to furnish records to support your claim at the time you are appointed		X
D Do you claim 10-point preference? If "YES," check the type of preference claimed and complete and attach Standard Form 15, "Claim for 10-Point Veteran Preference," together with the proof requested in that form.	X	

Type of Preference: [X] Compensable Disability 30% or More [ ] Compensable Disability Below 30% [ ] Non-compensable Disability [ ] Purple Heart Recipient [ ] Spouse [ ] Widow(er) [ ] Mother

E. List dates, branch, and serial number of all active service (enter "N/A", if not applicable)

From	To	Branch of Service	Serial or Service Number
March 27,1943	March 29,1946	U.S.Army Air Corps	37610055; AO-785719;
June 6,1951	April 4,1964	U.S. Air Force	24852A; 490 20 8981

Answer items 27 through 33 by placing an X in the proper column	YES	NO	
27 Are you a citizen of the United States? If NO give country of which you are a citizen	X		◀
NOTE: A conviction or a firing does not necessarily mean you cannot be appointed. The circumstances of the occurrence(s) and how long ago it (they) occurred are important. Give all the facts so that a decision can be made		X	◀
28 Within the last five years have you been fired from any job for any reason?		X	◀
29 Within the last five years have you quit a job after being notified that you would be fired? If your answer to 28 or 29 above is YES give details in Item 34. Show the name and address (including ZIP Code) of employer, approximate date, and reasons in each case. This information should agree with your answers in Item 21, Experience			
30 A Have you ever been convicted, forfeited collateral, or are you now under charges for any felony or any firearms or explosives offense against the law? (A felony is defined as any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified under the laws of a State as a misdemeanor which is punishable by a term of imprisonment of two years or less.)		X	◀
B During the past seven years have you been convicted, imprisoned, on probation or parole, or forfeited collateral, or are you now under charges for any offense against the law not included in A above?		X	◀
NOTE: When answering A and B above, you may omit: (1) traffic fines for which you paid a fine of $50.00 or less; (2) any offense committed before your 18th birthday which was finally adjudicated in a juvenile court or under a youth offender law; (3) any conviction the record of which has been expunged under Federal or State law; and (4) any conviction set aside under the Federal Youth Corrections Act or similar State authority		X	◀
31 While in the military service were you ever convicted by a general court-martial? If your answer to 30A, 30B, or 31 is YES give details in Item 34. Show for each offense: (1) date, (2) charge, (3) place, (4) court, and (5) action taken			
32 Does the United States Government employ in a civilian capacity or as a member of the Armed Forces any relative of yours (by blood or marriage)? (See Item 32 in the attached instruction sheet.) If your answer to 32 is YES give in Item 34 for such relatives: (1) name, (2) present address (including ZIP Code), (3) relationship, (4) department, agency, or branch of the armed forces	X		◀
33 Do you receive, or do you have pending application for, retirement or retainer pay, pension, or other compensation based upon military, Federal civilian, or District of Columbia Government service? If your answer to 33 is YES give details in Item 34. If military retired pay, include the rank at which you retired	X		◀

Your Statement cannot be processed until you have answered all questions including Items 27 through 33 above.
Be sure you have placed an X to the left of EVERY marker (◀) above either in the YES or NO column.

34 Item No	Space for detailed answers. Indicate item numbers to which the answers apply
6	I had my name changed back to the family name(Morrison to Morderosian) by Civil
	Court Order # 46239-E, in St Louis,Missouri, on May 21,1962.
29	I retired from the Federal Government after trying for four(4) years to obtain
	a transfer from the GSA to any other Department. I was admonished for making
	minor errors on SF-171, which were later proven to be correct.
32	My Spouse:Jerry Anne Morderosian, works for the U.S. Navy Security Station in
	Washington,D.C..
33	I was retired from the U.A. Air Force by reason of service incurred injuries.

If more space is required, use full sheets of paper approximately the same size as this page. Write on each sheet your name, birth date, and announcement or position title. Attach all sheets to this Statement at the top of page 3.

ATTENTION—THIS STATEMENT MUST BE SIGNED

Read the following paragraphs carefully before signing this Statement

A false answer to any question in this Statement may be grounds for not employing you, or for dismissing you after you begin work, and may be punishable by fine or imprisonment (U.S. Code, Title 18, Section 1001). All the information you give will be considered in reviewing your Statement.

AUTHORITY FOR RELEASE OF INFORMATION

I have completed this Statement with the knowledge and understanding that any or all items contained herein may be subject to investigation prescribed by law or Presidential directive, and I consent to the release of information concerning my capacity and fitness by employers, educational institutions, law enforcement agencies, and other individuals and agencies to duly accredited Investigators, Personnel Staffing Specialists, and other authorized employees of the Federal Government for that purpose.

CERTIFICATION

I certify that all of the statements made by me are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

SIGNATURE (Sign in ink) Lawrence D Morderosian

DATE May 1, 1985

10a

APPENDIX E

AFFIDAVIT

I, Naomi Adams, hereby declare and state as follows:

1. I am a former employee of the General Services Administration. I resigned from my position in that agency in March 1984.

2. While I was employed at the General Services Administration; I on occasion did favors for Lawrence D. Morderosian. One of these favors I did for Mr. Morderosian was assisting him in typing and preparing his SF-171.

3. I recall in preparing or typing Mr. Morderosian's SF-171 that I typed Mr. Morderosian's birth date. I understand that there is now a dispute about whether Mr. Morderosian intentionally decreased his birth date by ten years. It is my belief that such an entry on the SF-171 would have been made by me. This entry would have either been a typographical error or I may have placed the incorrect birth year in the SF-171 because of my reference to other records which may not have been correct.

4. I specifically remember typing in the number of law school credits for Mr. Morderosian's SF-171. I cannot remember now whether I typed this number in because of what Mr. Morderosian told me or because I looked up the credits in the transcript. I think it entirely possible that I looked up the credits in the transcript and typed the number of courses that Mr. Morderosian took at law school.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 15 day of February, 1985.

/s/ Naomi Adams
NAOMI ADAMS

February 25, 1985

ATTENTION: G. Jerry Shaw

RE: Typing for Mr. Morderosian

I met Mr. Morderosian in Crystal City early 1982; I was at the time looking for employment. He and I talked on occasion whenever I was in Crystal City between my interviewing. During the course of that time he asked me to type SF-171's and other documents for his agency—Special Investigations Agency.

I remember that one of the first things that I did was to work on correcting some of the SF-171's which had a lot of errors. While correcting his form; I spilled black coffee all over the pages. The worst ones was the Performance Appraisal and a "Letter of Commendation" so I din't worry about it. I did not find the Performance Appraisal until it was dry and I could read any of the ratings on the sheet. I then noticed that all of the other Performance Appraisals were outstanding so I assumed that the GSA SPA was also. I was able to white out the critical parts where the numerical rating was and typed in 4.5 across the middle and a 5 at the lower left hand corner. The explanation on the paper said that a 4.5 should be a 5 so I typed that amount.

After making the correction; I could not make out my error, so I gave the papers to Mr. Morderosian. I thought everything was alright, until I saw him last week at the Drug Fair in Crystal City. He informed me of the controversy with the GSA and I told him I would be happy to sign an affidavit explaining that it was my fault that there was a mistake on his Performance Appraisal.

/s/ Gloria A. Mitchell 2/25/85
DATE

SWORN TO AND SUBSCRIBED BEFORE ME THIS 25th Day of February, 1985.

/s/ Adena E. Larkin
Notary Public

My Commission Expires Dec. 25, 1988

FDIS

FirstDiversified
InvestmentServices

MANAGEMENT & FINANCIAL SERVICES
3535 Broadway, Suite 200
Kansas City, MO 64111 (816) 753-1000

February 6, 1985

Mr. G. Jerry Shaw
Attorney at Law
900 Seventeenth St. N.W.
Washington, D.C. 20006

Dear Mr. Shaw:

This letter is to serve as confirmation that Mr. Larry Morderosian was assigned on a temporary detail with the Missouri Department of Social Services during 1977 and 1978.

Mr. Morderosian worked under my direction during that period, when I was Deputy Director of the Department. We requested his assignment on detail, due to his expertise in contracting and in auditing and investigation.

Larry Morderosian was very helpful to the State in their investigation of nursing home fraud. He provided leadership and trained state personnel in addition to his own investigative activities. Mr. Morderosian supervised investigators and office personnel for the Department on a special assignment to the Governor on a Committee involved with dispensing payments following a major flood in Kansas City. I know that all formal appraisals of his performance during that period to be of high rating. I remember the equality of his work and appreciated the contribution he made to our Department.

Sincerely,

/s/ James Bergfalk
JAMES BERGFALK

he

cc: Mr. Larry Morderosian

[LOGO]

ST. LOUIS COUNTY, MISSOURI

GENE MCNARY, COUNTY EXECUTIVE
Department of Human Resources
Donald E. Clark, Director

October 12, 1984

RE: Confirmation of Employment for
Lawrence D. Morderosian

TO WHOM IT MAY CONCERN:

I am writing to you at the request of Mr. Lawrence D. Morderosian, to confirm his employment and work performance while he was on a special assignment from the Federal Government to the Bi-State Development Agency (February, 1979-April, 1980). I was the Director of Administration for that Agency at the time of his arrival through October, 1979.

Within the Department of Administration, Mr. Morderosian provided expertise in the area of contract management, including review, inventory, management and control. These responsibilities comprised a total review of existing agency contracts from initial procurement through administration and investigation of any irregularities in procurement or performance.

He assisted in establishing a new inventory control system and programming it for the computer system. In addition, he assisted in the implementation and coordination of internal and external security operations. The internal security work was primarily to discover and discourage irregularities in procurement activities. External security involved working covertly with the Agency's security force. The nature of this work required close cooperation with the metropolitan police in arrests for drug use, vandalism, etc.

In addition to his assignments within the Department of Administration, he also assumed fiscal related duties within the Office of the Controller. Mr. Barry Sykes held the postion of Controller and supervised Mr. Morderosian in that phase of his responsibilities.

The performance of Mr. Morderosian was highly satisfactory. The Agency benefitted from his efforts and expertise.

Please do not hesitate to contact me if I can provide you with any additional information on Mr. Morderosian's work while on assignment to the Bi-State Development Agency.

Respectfully,

/s/ Donald E. Clark
DONALD E. CLARK, Director
Department of Human Resources
555 South Brentwood Boulevard
Clayton, Missouri 63105

DEC:sr

On this 22nd day of October, 1984, I hereby attest that this is a true and accurate copy of a letter consisting of two pages with writing on the front only.

/s/ David M. Brown
Notary Public

My Commission Expires: 11/22/85

APPENDIX F

[SEAL]

U.S. SMALL BUSINESS ADMINISTRATION
PHILADELPHIA REGIONAL OFFICE
Suite 640—West Lobby
One Bala Cynwyd Plaza
Bala Cynwyd, Pennsylvania 19004

April 4, 1986

Mr. Larry Morderosian
8727 Cuttermill Place
Springfield, VA 22153

Dear Larry,

My usual frantic schedule was "amended" by two unscheduled trips so I really haven't had time to review the proposed statement until today.

The proposed statement accurately reflects what I told Mike and therefore I have signed it and enclosed it with this letter. Further, I am willing to respond to some of the points in your two letters as follows:

1. We met and talked over two drinks and dinner at my hotel. We met there at my request because of my very busy interview schedule during the normal working day. The total time of our meeting was probably three hours.
2. We talked about numerous things during that time some related to your qualifications and the job and some related to topics in the "life in general" category.
3. What impressed me about you in no particular order were:

   —substantial "line" and policy experience in Federal procurement.

—MBA and related education
—Maturity
—Personality
—Sensible reasons for wanting to come back into the government

4. You certainly discussed your problems with GSA but *my recollection* is well summarized in the signed statement.

5. I do not recollect that you went into alot of detail about your problems with GSA. I had the impression the overall environment was unpleasant and stressful and that at some point it became intolerable medically and otherwise and you retired. I'm not saying you weren't more specific than that. I am saying I don't remember specifics.

Sincerely,

/s/ Richard Segrave-Daly
RICHARD SEGRAVE-DALY
Assistant Regional Administrator
for Procurement Assistance

APPENDIX G

July 29, 1985

Mr. Thomas Del Pozzo, Chief
Suitability Adjudication Branch
Office of Personnel Management
NACI Center
Boyers, PA. 26018

Dear Mr. Del Pozzo:

Re: Request For Assistance In SF 171 Completion For Re-Instatement to Federal Employment.

I was advised by a person with the Office of General Counsel, OPM here in Washington, D.C., that I should contact you on the matter of my SF 171 questions. It appears that you are considered to be the authority and I want to insure that I am correct in completing my SF 171 prior to sending copies to various Federal Departments in search of a position that will be re-instatement to the Federal Government.

I have written several letters to the OPM main office in Washington and have not been successful in obtaining any satisfactory answers to my questions on several Items in the SF 171. Copies of these letters are enclosed and I will not repeat the questions. I have written to your office several times but when I called I was told that there was too large a workload to expect any responses to my letters in less than a month. I hope that you will find time to answer my letter in less time.

My major concern is the correct statements on position descriptions; position titles; and, the addition of comments on Item 29 in Item 34. The enclosed letters will explain this in greater details. One point I will reference is my comments of Item 29, in Item 34. I have included a comment in Item 29 I underline "NO". Please note that

in my letter to the Director of OPM in letter dated May 3, 1985, I mentioned that I had received a Form 4008, "Notice of Rating". This was received on September 4, 1984. I have since written to OPM with no responses on my inquiries.

The "Notice of Rating" dated June 15, 1985 is identical to the one I received last year dated September 1, 1984. In view of the closeness of the June 15, 1985 Form 4008, I am assuming that the document was sent by OPM in response to my query in the matter of my letter of May 3, 1985 (enclosed) in which I asked for the same information as I have asked for from your office.

I believe that the major item to be of concern is my comments in Item 34, which refers to Item 29. I had major problems with the GSA, my last employer, from 1980 to 1984 when I retired from the Government, which ranged from threats from my Immediate Supervisor and other Supervisors; the violation of my rights under the Equal Employment Opportunity Act, etc.

There has been no response to my query about the above cited matters from the Office of the Director of OPM. My major concern was to correctly complete my SF 171, in my quest for return to the Federal Government employment status.

If I do not receive any response from that Office I will have to assume that my completed SF 171, which is a copy of the one enclosed herewith had been accepted per se. In view of the recommendations I was given by OPM persons here about your expertise in the examination of SF 171s, I ask that you examine my SF 171 to ascertain if there are any areas that need attention.

Please respond to my letter as soon as possible. If I do not hear from you within a reasonable time, I will assume that you approved my SF 171 and I will begin to send out my SF 171 and attachments to potential employer across the country. My statement about assum-

ing your thoughts on my SF 171. Please do not misunderstand my intentions. I am interested in returning to the Government as soon as possible.

If I do not hear from you I will begin sending out my SF 171 and attachments by September 1, 1985. The DOD, DI and SBA are advertising for Procurement analysts and Contract Specialists. I am considered to to be an expert in both professions.

Please respond to me as soon as possible.

Sincerely,

Larry Morderosian
8727 Cuttermill Place
Springfield, VA. 22153

encl. (2)

December 15, 1985

Mr. Thomas DelPozzo, Chief
Suitability Adjudications Branch
Office of Personnel Management
NACI Center
Boyers, Pennsylvania 26018

Dear Sir:

Re: Re-Instatement With The Federal Government: SBA

I am writing to advise you and your staff that I have been accepted by the Small Business Administration, Washington, D.C., as a Procurement Analyst at a grade of GS-12.

On December 25, 1984, and February 18, 1985, I wrote to the Director of the OPM and inquired as my status as a reinstateable Federal employee. I also mentioned my years long problems with the GSA even after I had left the Federal Government. On February 10, 1985, I wrote a letter to your personal attention on the advice of a person who worked at the OPM, Washington, D.C., to request a formal statement on my employment status with the Federal Government. On July 29, 1985, I again wrote to you personally, on the same subject matter and elaborated in greater detail the matter of GSA, and my intention to seek Federal Government employment unless advised by the Director, OPM or your Office to the contrary.

I have never received any response to any of the above referenced letters to the Director, OPM or to you personally. It was, I believe a reasonable assumption that my status as favorable to seek employment with the Federal Government.

Therefore, I immediately submitted my applications for two of my primary specialties recognized by OPM: (1) Contract Specialist (2) Procurement Analyst.

This is to advise you that I am to begin my work for the SBA, Philadelphia Regional Office located in Crystal City, Arlington, Virginia, as of December 2, 1985. I have terminated my work on a civil case by turning all information to the FBI, IRS-Intelligence and INS, to insure that there is no violation of the Federal laws concerning "moonlighting."

Respectfully,

/s/ Lawrence D. Morderosian
LAWRENCE D. MORDEROSIAN
8727 Cuttermill Place
Springfield, Va. 22153

cc:File

APPENDIX H

SPECIAL INVESTIGATIONS AGENCY
P.O. Box 1858
Washington, D.C. 20013-1858

August 10, 1988

Clerk
Supreme Court of the United States
1 First Street, N.E.
Washington,D.C. 20543

Dear Sir:

Re: Request For Delay in Filing of Petition for Writ of Certiorari Due to Extenuating Circumstances; Filing Pro Se.

This letter is submitted to ask your office for a period of delay in submitting my Petition for Writ of Certiorari, in the matter of appealing the Decision by the United States Court of Appeals for the Federal Circuit. This Decision was rendered in Docket #87-3562-3563 a copy of which is attached herewith (Dated 1 June, 1988).

The basis for this request is as follows:

a) I was not advised of this Court decision of 1 June, 1988 until after 1 August, 1988 by Legal Counsel;

b) On July 11, 1988, I filed a suit vs the General Services Administration which was responsible for the development of the situation that developed the alleged basis for the adverse Merit Systems Protection Board decision that favored the Office of Personnel Management. A copy of that civil Action 88-1888 is enclosed for your examination;

c) The documentation that provides a basis for this Civil Action will also be a major portion of this Petition for Writ of Certiorari;

d) The allegation of impropriety in completion of my SF-171 by the Office of Personnel Management can be proven to be baseless, and that the major claim of the legal counsel employed at that time was not based on facts, but, what that Counsels newly graduated legal associate desired to use as a basis for the counter claim vs the OPM.

e) If I am granted an extension of time to submit this Petition I believe that I can provide adequate proof of the facts that would negate the allegations made by the Office of Personnel management;

f) I believe that if I am given time to Subpoena the entire GSA and OPM Records of this matter I can prove that the OPM was in fact acting in behalf of the General Service Administration and that the vacating and remanding of the Decision of the Merit Systems Protection Board, of Appeal #87-3563 and Appeal #87-3562 should apply to both appeals, and therefore this Appeal would not be necessary before the Supreme Court of the United States.

Thank you form the time and interest in my request for an extention of time. I remain,

Respectfully,

/s/ Lawrence D. Morderosian
LAWRENCE D. MORDEROSIAN
8727 Cuttermill Place;
Springfield, VA. 22153
(Tel: 644 9428)

THE INSPECTOR GENERAL FOR
PRIVATE INDUSTRY
Circa 1964

APPENDIX I

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
Washington, D.C. 20543

JOSEPH F. SPANIOL, JR.,
CLERK OF THE COURT

Area Code 202
474-3011

August 15, 1988

Mr. Lawrence D. Morderosian
8727 Cuttermill Place
Springfield, VA 22153

Re: Lawrence D. Morderosian, v. Office of Personnel Management Application No. A88-127

Dear Mr. Morderosian:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to the Chief Justice, who on August 15, 1988, signed an order extending the time to and including September 29, 1988.

A copy of the Justice's order is enclosed.

Very truly yours,

JOSEPH F. SPANIOL, JR.,
Clerk

By Francis J. Lorson
FRANCIS J. LORSON
Chief Deputy Clerk

NOTE—FOR YOUR INFORMATION: A copy of this letter has been sent to all interested parties shown on the attached notification list.